



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

J. Scott Denko
Andrews & Kurth LLP
111 Congress Ave., Suite 1700
Austin, TX 78701

MAILED

MAR 17 2006

TECHNOLOGY CENTER 2100

In re Application of: Birum, et al.)
Application No. 09/494,765) **DECISION ON PETITION TO**
Attorney Docket No. 120073.420) **WITHDRAW HOLDING OF**
Filed: January 31, 2000) **ABANDONMENT UNDER 37 CFR**
For: SOFTWARE ANALYSIS SYSTEM) **§1.181**
HAVING AN APPARATUS FOR)
SELECTIVELY COLLECTING ANALYSIS)
DATA FROM A TARGET SYSTEM
EXECUTING SOFTWARE
INSTRUMENTED WITH TAG
STATEMENTS AND METHOD FOR USE
THEREOF

This is a decision on the petition, originally filed April 16, 2004, (duplicate copies filed September 20, 2004 and December 15, 2005) requesting the Withdrawal of the Holding of Abandonment of the above-identified application, under 37 CFR §1.181. The instant application was held abandoned for failure to timely pay the issue fee due in response to the Notice of Allowance and Fee(s) Due (PTOL-85) mailed November 19, 2003. The three-month statutory period for response expired on February 19, 2004. A notice of abandonment was mailed on April 8, 2004.

According to the MPEP §711.03(c), the showing required to establish non-receipt of an Office action includes the following:

- 1) a statement from practitioner that the Office action was not received,
- 2) a statement from practitioner that the file jacket and docket records were searched,
- 3) a copy of the docket record at the address of record, and
- 4) a reference to the docket record in the practitioner's statement.

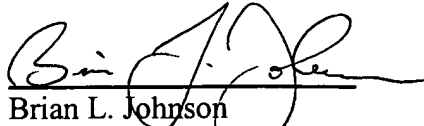
In support of the petition, applicants' representative provides a statement that the Notice of Allowance and Fee(s) Due was not received and that a search of the file jacket and docket records has been performed. Petitioner has also submitted a copy of the docket record at the address of record as well as a reference to the docket record in practitioner's statement.

Petitioner has established non-receipt of the Office action according to the requirements set forth above. Accordingly, the petition is **GRANTED**.

Note, a duplicate copy of the revocation of power of attorney with new power of attorney, change of correspondence address and statement under 37 CFR 3.73(b), filed November 16, 2004, is acknowledged. The original copy was filed October 29, 2003.

Decision on Petition
Application SN 09/494,765

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **withdraw the holding of abandonment**, before **REDATING** and **REMAILING** the Notice of Allowance and Issue Fees Due to the applicant.

A handwritten signature in black ink, appearing to read "Brian L. Johnson", written over a horizontal line.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security